IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH MARCH 2007 / 23RD PHALGUNA 1928

Crl.MC.No. 680 of 2007(R)

CC.1075/2000 of ADDL.CHIEF JUDICIAL MAGISTRATE, ERNAKULAM

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PETITIONER:

REMADEVI, W/O.CHANDRADATH, AGED 53 YEARS
REMA NIVAS, KUTHIATHODU, ALAPPUZHA.

BY ADV. SRI.P.N.MOHANAN

RESPONDENTS:

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1. STATE OF KERALA REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

2. KUNJAMMA KOSHY,
39/2, PANAMPILLY NAGAR,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 14/03/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.680 of 2007

Dated this the 14th day of March, 2007

ORDER

The petitioner faces indictment in a prosecution under Section 138 of the N.I Act. The prosecution was initiated evidently in or prior to 2000 as can be seen from the number of the case - C.C.1075 of 2000. The petitioner had appeared before the learned Magistrate earlier, it is submitted. But subsequently, she had failed/omitted to appear and she finds herself facing the unenviable predicament of a warrant of arrest issued by the learned Magistrate chasing her. According to the petitioner, the matter has now been settled and the complainant has compounded the offence. The petitioner is willing to appear before the learned Magistrate. She apprehends that her application for bail to be filed by her on her surrender may not be considered by the learned Magistrate on merits, in accordance with law and expeditiously in view of her earlier conduct of not appearing before the learned Magistrate. In these circumstances, it is prayed that directions under Section 482 Cr.P.C may be issued in favour of the petitioner to release her on bail on the date of her surrender itself.

2. I find absolutely no reason to justify the invocation of the extraordinary inherent jurisdiction under Section 482 Cr.P.C. It is certainly for the petitioner to appear before the learned Magistrate

and explain to the learned Magistrate the circumstances under which she could not earlier appear before the learned Magistrate. I have no reason to assume that the learned Magistrate would not consider such application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific direction appears to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police [**2003(1) KLT 339].

3. This Crl.M.C is, in these circumstances, dismissed, but with the specific observation that if the petitioner appears before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously - on the date of surrender itself.

4. If, as a matter of fact, the parties have settled their disputes, it will certainly be open to the complainant to file an application under Section 257 Cr.P.C to withdraw the complaint or report composition before the learned Magistrate. Personal appearance of the petitioner/accused before the learned Magistrate need not, in such circumstances, be insisted also.

4. Hand over a copy of this order to the learned counsel for the petitioner.

(R.BASANT, JUDGE)

rtr/-